

UNIT 46 MISTAKES IN OFFERS

(Blueprint 18 — 4/1/91)

_____ has satisfactorily completed on-the-job training in the Part or Parts of this Unit specified below.

Certification for Part A: Pre-Award Mistakes In Bids

Duty	Identify and resolve preaward mistakes in bids.
Conditions	Given the solicitation, the results of price analysis, and bids containing suspected or alleged mistakes.
Overall Standard(s)	<p>All offers selected for award are free of substantial mistakes that would:</p> <ul style="list-style-type: none">• Diminish the Government's power of acceptance or ability to enforce contract, or• Prejudice the rights of offerors whose offers are fully responsive. <p>In resolving mistakes, does not give the offeror "two bites at the apple."</p>

Evaluator	Name	_____
	Title	_____
	Date	_____

Certification for Part B: Pre-Award Mistakes In Proposals

Duty	Identify and resolve preaward mistakes in proposals.
Conditions	Given the solicitation, the results of price analysis, and proposals containing suspected or alleged mistakes.
Overall Standard(s)	Correctly identify all discernable "potential" mistakes and bring them to the attention of the offeror during discussions.

Evaluator	Name	_____
	Title	_____
	Date	_____

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Certification for Part C: Post-Award Mistakes In Offers

Duty	Identify and resolve post-award mistakes in offers.
Conditions	Given the solicitation, the results of price analysis, and a mistake alleged by the offeror in line for award.
Overall Standard(s)	<p>All offers selected for award are free of substantial mistakes that would:</p> <ul style="list-style-type: none">• Diminish the Government's power of acceptance or ability to enforce contract, or• Prejudice the rights of offerors whose offers are fully responsive.

In resolving mistakes, do not give the offeror "two bites at the apple."

Evaluator	Name	_____
	Title	_____
	Date	_____

UNIT 46 MISTAKES IN OFFERS

DOCUMENTATION OF OJT ASSIGNMENT(S)
Description of Assignment:
Evaluation:
Completion Date:

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DOCUMENTATION OF OJT ASSIGNMENT(S)

Description of Assignment:

Evaluation:

Completion Date:

As needed, insert additional pages to record OJT assignments.

UNIT 46 MISTAKES IN OFFERS

Policies

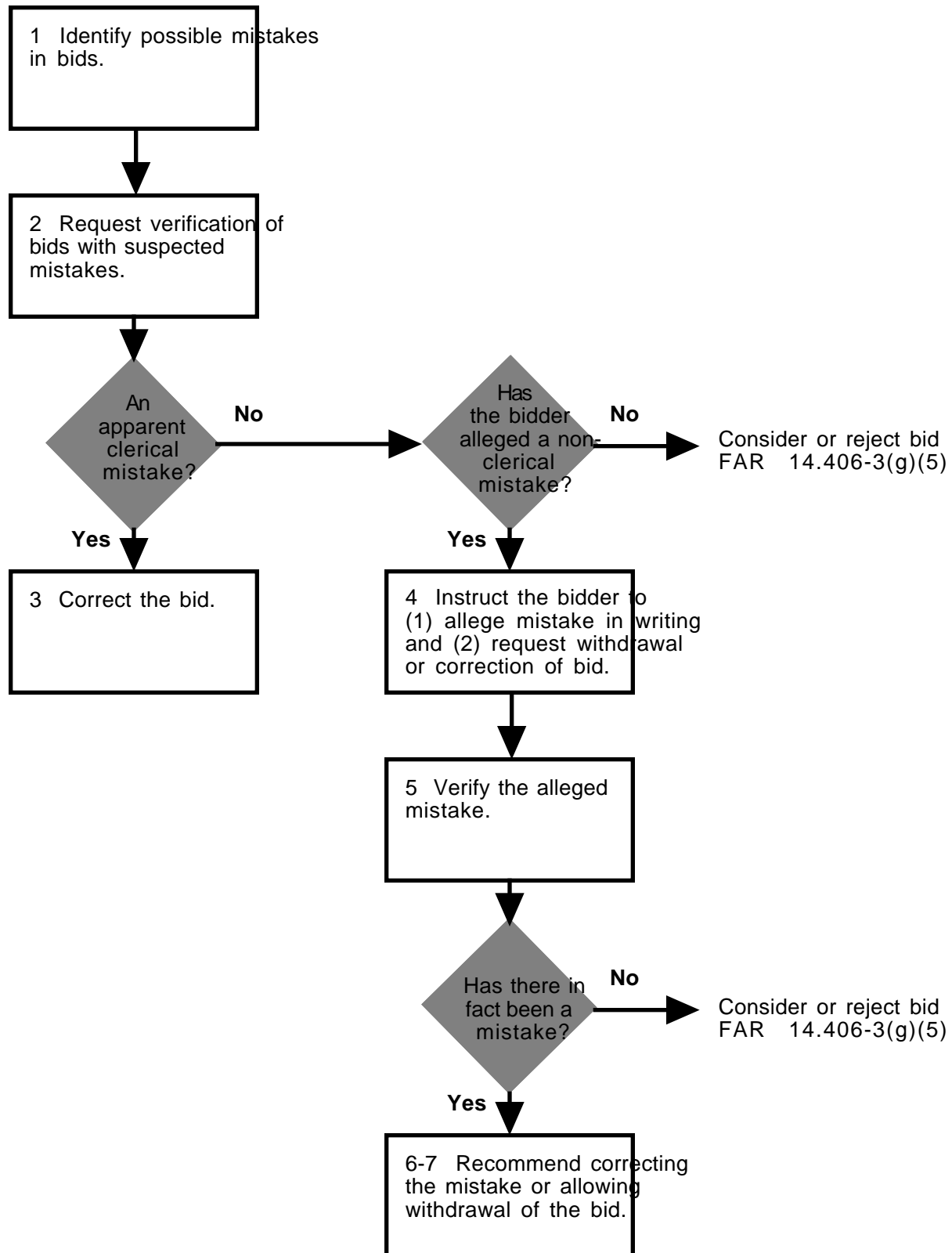
<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
14.406		Mistakes in bids.
15.607		Disclosure of mistakes before awards.
15.1005		Discovery of mistakes after award.

Other KSA's

1. Skill in analyzing and determining the credibility of the contractor's "clear and convincing evidence" submitted to support an alleged mistake.
2. Knowledge of contract law on matters related to assent , including such issues as unilateral mistakes, mutual mistakes, misrepresentation, nondisclosure, fraud, duress, and related remedies (from Business Law).

Other Policies and References (Annotate As Necessary):

Pre-Award Mistakes In Bids



UNIT 46 MISTAKES IN OFFERS

Part A: Pre-Award Mistakes In Bids

Tasks

Related Standards

1. Examine bids for mistakes.	A1. Correctly recognize mistakes that are apparent on the face of the bid itself (e.g., apparent clerical mistakes). Correctly recognize other aspects of the bid that need verification (e.g., extremely low or high price relative to other bids and the Government's estimate).
2. Request verification of bids with suspected mistakes. Subtasks: <ul style="list-style-type: none">• Contact bidder.• Identify and ask bidder to explain the passage in his/her bid containing the possible error.• Put the bidder on notice of the suspected mistake:<ul style="list-style-type: none">- Inform the contractor if "a bid is so much lower than the other bids or the Government estimate as to indicate the possibility of error."- Remind the bidder "of important or unusual characteristics of the specifications," "changes in requirements from previous purchases," or of amendments that may have lead to a mistake in bid.• If the bidder stands by the bid, request written verification of the bid as it stands.	A2. Avoid violation of Anti-Deficiency Act. Incorporate the clause at 52.232-18 when the conditions at FAR 32.703-2(a) are met. Incorporate the clause at 52.232-19 when the conditions at FAR 32.703-2(b) are met.
3. For apparent clerical mistakes, instruct the bidder to provide verification of the bid and correct the bid by attaching the verification to the bid.	



When correcting apparent clerical mistakes in electronic bids, include as part of the electronic solicitation file:

- The original bid
- The verification request
- The bid verification.

[§14.407-2; FAC 90-29, Case 91-104]

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Part A: Pre-Award Mistakes In Bids

Tasks

Related Standards

<p>4. If bidder alleges a mistake other than an apparent clerical error, instruct the bidder to (1) allege the mistake in writing and (2) request withdrawal or correction of the bid. Also require submission of any necessary evidence of the mistake.</p>	<p>A4. Contractor's evidence must be sufficient to determine the existence of a mistake. Examples:</p> <ul style="list-style-type: none"> • Written assertion of apparent clerical mistakes. • For other suspected mistakes, evidence might include: <ul style="list-style-type: none"> - Certified copies of work papers and other data used in preparing the bid. - Copies of subcontractor and supplier quotes. - Published price lists. - Comparison of line items.
<p>5. Determine whether there has in fact been a mistake. Subtasks:</p> <ul style="list-style-type: none"> • Obtain any necessary reviews from technical personnel, the legal office, etc. • If bidder fails to provide sufficient or any evidence of an alleged mistake or to verify a suspected mistake or verifies the bid "as is", accept bid or reject bid. If accepted, use the original, uncorrected bid. 	<p>A5. Reject bids that are so out of line with the amounts of other bids received or with the amount estimated by the agency or determined by the contracting officer to be reasonable or if there are other indications of error so clear, as to reasonably justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders.</p>
<p>6. If there has been a mistake, determine whether the intended price can be calculated from available evidence.</p> <ul style="list-style-type: none"> • If the price cannot be calculated, recommend allowing withdrawal of the bid to the agency head or designee. • If the price can be calculated, recommend correcting the mistake (if the corrected bid would displace one or more of the lower bids or remain the lowest bid) and denying any request for withdrawal. 	
<p>7. Prepare recommendation to the agency head or designee.</p>	<p>A7. Submit recommendations to the agency head or designees provided in FAR 14.406-3(g)(3). Prepare recommendations per FAR 14.406-3(g)(3).</p>

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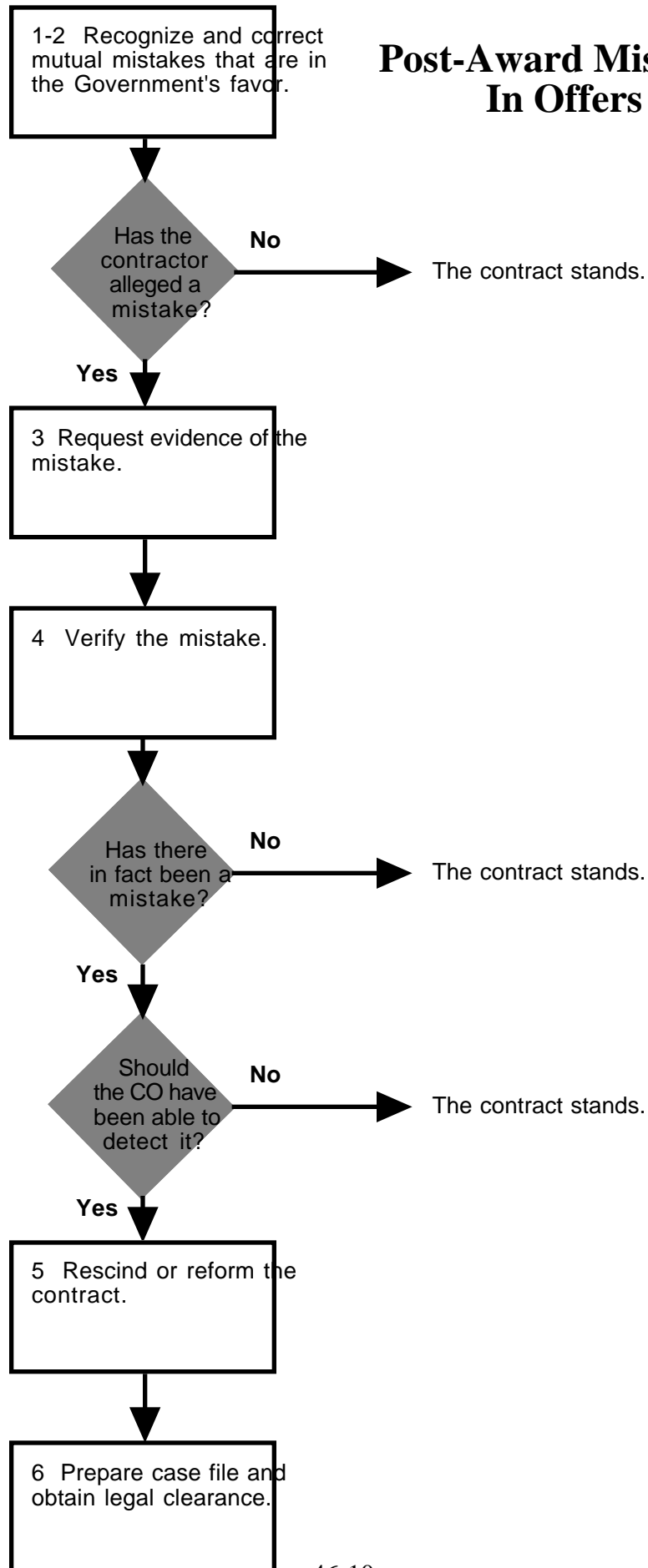
Part B: Pre-Award Mistakes In Proposals

Tasks

Related Standards

1. Identify and correct minor informalities and irregularities.	
2. Identify and correct other suspected mistakes in the course of discussion.	
3. If there is a decision to award without discussions, handle a mistake following the same procedure as a preaward mistake in bid (Part A).	B3. No correction made based on evidence outside the proposal, unless discussions are held with all offerors in the competitive range.

Post-Award Mistakes In Offers



UNIT 46 MISTAKES IN OFFERS

Part C: Post-Award Mistakes In Offers

Tasks

Related Standards

<p>1. Recognize mutual mistakes on the face of the offer. Examples:</p> <ul style="list-style-type: none"> • Differences in quantity between solicitation as amended and offer. • Wrong point of delivery (i.e., FOB destination in offer, when solicitation as amended specified FOB origin). 	
<p>2. Modify (see Unit 75) the contract to correct mutual mistakes on the face of the offer that are in the Government's favor.</p>	
<p>3. If the contractor alleges a mistake, request evidence of the mistake. Examples:</p> <ul style="list-style-type: none"> • Written assertion of apparent clerical mistakes. • For other suspected mistakes, evidence might include: <ul style="list-style-type: none"> - Certified copies of work papers and other data used in preparing the offer. - Copies of subcontractor and supplier quotes. - Published price lists. - Comparison of line items. 	
<p>4. Determine whether there has in fact been a mistake and if the C.O. should have been able to detect it.</p>	<p>C4. Obtain any necessary reviews from technical personnel, the General Counsel's office, etc.</p> <p>If the offeror fails to provide sufficient or any evidence of an alleged mistake or that a reasonable person should have recognized it, the contract stands.</p> <p>Do not rescind or reform the contract unless the evidence clearly indicates a mutual mistake or a unilateral mistake by the contractor so apparent as to have charged the contracting officer with notice of the probability of a mistake.</p>

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Part C: Post-Award Mistakes In Offers

Tasks

Related Standards

<p>5. If a mistake is verified, establish the correct price and determine whether to:</p> <ul style="list-style-type: none">• Rescind the contract and resolicit, or• Reform (see Unit 75) the contract.	<p>C5. Correctly calculate the intended price, given data from all evidence submitted by the contractor. Rescind the contract if the corrected price exceeds the next lowest acceptable (i.e., responsive offer from a responsible offeror) or if the intended price cannot be determined. Prepare the case file in accordance with FAR 14.406-4(e)(2). Reform the contract to (i) delete the items involved in the mistake or (ii) increase the price, if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original IFB.</p>
<p>6. Prepare case file and obtain legal clearance of decision before issuance.</p>	<p>C6. Prepare the case file in accordance with FAR 14.406-4(e)(2).</p>